

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-305-E

IN RE:

Request of South Carolina Office of)	
Regulatory Staff for Rate Relief to)	
SCE&G Rates Pursuant to)	<u>SCE&G'S MOTION TO STRIKE THE</u>
S.C. Code Ann. § 58-27-920)	<u>AFFIDAVIT OF SARAH E. LEVERETTE</u>
_____)	

South Carolina Electric & Gas Company ("SCE&G" or the "Company"), by and through its undersigned counsel and pursuant to 10 S.C. Code Ann. Regs. 103-829, hereby submits this Motion to Strike the affidavit of Sarah E. Leverette, attorney at law, (the "Affidavit") filed by Lynn S. Teague on November 20, 2017. As set forth herein, the Affidavit is improper because the legislative record speaks for itself, and no individual can testify as to legislative intent after the fact.

INTRODUCTION

On September 26, 2017, ORS commenced the instant action by filing its Request for Rate Relief to SCE&G's Rates Pursuant to S.C. Code Ann. § 58-27-920 ("Request"). On September 28, 2017, SCE&G filed a Motion to Dismiss ORS's Request, and on October 31, 2017, SCE&G filed a Brief in support of this Motion. On October 4, 2017, Lynn Teague, in her individual capacity, petitioned to intervene in this matter. This petition was granted on October 25, 2017. Thereafter, on November 20, 2017, Teague filed a letter in which she joined in ORS's Request. In support of the letter, Teague submitted "Appendix A," an Affidavit of Sarah E. Leverette,

Attorney at Law. SCE&G requests that the Commission strike Appendix A, the Affidavit, from the record.

ARGUMENT

The sole purpose of the Affidavit is to provide testimony of a member of the “West Committee,” the Committee charged with revising the South Carolina Constitution in 1971, explaining the “intent and purpose” of Article IX, Section 1 of the South Carolina Constitution.

Allowing Ms. Leverette to testify after the fact to the intent of West Committee is strictly prohibited: “It is a settled principle in the interpretation of statutes that even where there is some ambiguity or some uncertainty in the language used, resort cannot be had to the opinions of legislators or of others concerned in the enactment of the law, for the purpose of ascertaining the intent of the legislature.” *Greenville Baseball, Inc. v. Bearden*, 200 S.C. 363, 371, 20 S.E.2d 813, 817 (1942) (prohibiting affidavits of State Senators who were members of the State Senate when the act in question was adopted).

Similar to the present facts, in *Kennedy v. S.C. Retirement System*, 345 S.C. 339, 353–54, 549 S.E.2d 243, 250 (2001), the South Carolina Supreme Court held that the testimony of an executive branch officer, as the “author” of a legislative amendment, was not admissible as evidence of legislative intent. “Such testimony of what [one] intended as ‘author’ of the amendment, as well as what problems he intended the amendment to address, are not proper legislative history for a court to take into account.” *Id.* at 354, 549 S.E.2d at 251. Likewise, the South Carolina Supreme Court has also provided that *even if* there are no committee reports or reports of legislative debates, testimony of an author regarding the meaning of a statute is inadmissible. *Bowaters Carolina Corp. v. Smith*, 257 S.C. 563, 572, 186 S.E.2d 761, 764 (1972).

Based on this precedent, it is clear that if legislative intent needs to be ascertained, it cannot be gleaned through the testimony of a non-elected committee study member over forty years later. Only the official records associated with the West Committee are admissible as evidence of the legislative intent. Because this testimony is prohibited, the Commission should strike the Affidavit in whole.

CONCLUSION

Based on the foregoing, SCE&G respectfully requests that the Commission grant SCE&G's Motion to Strike the Affidavit of Sarah E. Leverette, Attorney at Law on behalf of Lynn Teague.

Respectfully submitted,



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Cayce, South Carolina
December 7, 2017

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2017-305-E

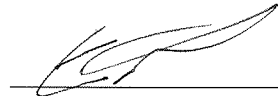
IN RE:

Request of South Carolina Office of) **CERTIFICATE OF SERVICE**
 Regulatory Staff for Rate Relief to)
 SCE&G Rates Pursuant to)
 S.C. Code Ann. § 58-27-920)
 _____)

This is to certify that I have caused to be served this day one copy of the **SCE&G'S MOTION TO STRIKE THE AFFIDAVIT OF SARAH E. LEVERETTE** to the persons named below at the addresses set forth via U.S. First Class Mail and electronic mail:

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Cayce, South Carolina
December 7, 2017